

106TH CONGRESS
2D SESSION

H. R. 3514

AN ACT

To amend the Public Health Service Act to provide for a system of sanctuaries for chimpanzees that have been designated as being no longer needed in research conducted or supported by the Public Health Service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chimpanzee Health
5 Improvement, Maintenance, and Protection Act”.

6 **SEC. 2. ESTABLISHMENT OF NATIONAL SANCTUARY SYS-**
7 **TEM FOR FEDERALLY OWNED OR SUP-**
8 **PORTED CHIMPANZEES NO LONGER NEEDED**
9 **FOR RESEARCH.**

10 Subpart 1 of part E of title IV of the Public Health
11 Service Act (42 U.S.C. 287 et seq.) is amended by insert-
12 ing after section 481B the following section:

13 **“SEC. 481C. SANCTUARY SYSTEM FOR SURPLUS CHIM-**
14 **PANZEES.**

15 “(a) IN GENERAL.—The Secretary shall provide for
16 the establishment and operation in accordance with this
17 section of a system to provide for the lifetime care of chim-
18 panzees that have been used, or were bred or purchased
19 for use, in research conducted or supported by the Na-
20 tional Institutes of Health, the Food and Drug Adminis-
21 tration, or other agencies of the Federal Government, and
22 with respect to which it has been determined by the Sec-
23 retary that the chimpanzees are not needed for such re-
24 search (in this section referred to as ‘surplus chim-
25 panzees’).

1 “(b) ADMINISTRATION OF SANCTUARY SYSTEM.—

2 The Secretary shall carry out this section, including the
3 establishment of regulations under subsection (d), in con-
4 sultation with the board of directors of the nonprofit pri-
5 vate entity that receives the contract under subsection (e)
6 (relating to the operation of the sanctuary system).

7 “(c) ACCEPTANCE OF CHIMPANZEES INTO SYS-

8 TEM.—All surplus chimpanzees owned by the Federal
9 Government shall be accepted into the sanctuary system.
10 Subject to standards under subsection (d)(4), any chim-
11 panzee that is not owned by the Federal Government can
12 be accepted into the system if the owner transfers to the
13 sanctuary system title to the chimpanzee.

14 “(d) STANDARDS FOR PERMANENT RETIREMENT OF
15 SURPLUS CHIMPANZEES.—

16 “(1) IN GENERAL.—Not later than 180 days
17 after the date of enactment of this section, the Sec-
18 retary shall by regulation establish standards for op-
19 erating the sanctuary system to provide for the per-
20 manent retirement of surplus chimpanzees. In estab-
21 lishing the standards, the Secretary shall consider
22 the recommendations of the board of directors of the
23 nonprofit private entity that receives the contract
24 under subsection (e), and shall consider the rec-
25 ommendations of the National Research Council ap-

1 plicable to surplus chimpanzees that are made in the
2 report published in 1997 and entitled ‘Chimpanzees
3 in Research—Strategies for Their Ethical Care,
4 Management, and Use’.

5 “(2) CHIMPANZEES ACCEPTED INTO SYSTEM.—
6 With respect to chimpanzees that are accepted into
7 the sanctuary system, standards under paragraph
8 (1) shall include the following:

9 “(A) A prohibition that the chimpanzees
10 may not be used for research, except as author-
11 ized under paragraph (3).

12 “(B) Provisions regarding the housing of
13 the chimpanzees.

14 “(C) Provisions regarding the behavioral
15 well-being of the chimpanzees.

16 “(D) A requirement that the chimpanzees
17 be cared for in accordance with the Animal
18 Welfare Act.

19 “(E) A requirement that the chimpanzees
20 be prevented from breeding.

21 “(F) A requirement that complete histories
22 be maintained on the health and use in research
23 of the chimpanzees.

24 “(G) A requirement that the chimpanzees
25 be monitored for the purpose of promptly de-

1 tecting the presence in the chimpanzees of any
2 condition that may be a threat to the public
3 health or the health of other chimpanzees.

4 “(H) A requirement that chimpanzees pos-
5 ing such a threat be contained in accordance
6 with applicable recommendations of the Direc-
7 tor of the Centers for Disease Control and Pre-
8 vention.

9 “(I) A prohibition that none of the chim-
10 panzees may be subjected to euthanasia, except
11 as in the best interests of the chimpanzee in-
12 volved, as determined by the system and an at-
13 tending veterinarian.

14 “(J) A prohibition that the chimpanzees
15 may not be discharged from the system. If any
16 chimpanzee is removed from a sanctuary facility
17 for purposes of research authorized under para-
18 graph (3)(A)(ii), the chimpanzee shall be re-
19 turned immediately upon the completion of that
20 research. All costs associated with the removal
21 of the chimpanzee from the facility, with the
22 care of the chimpanzee during such absence
23 from the facility, and with the return of the
24 chimpanzee to the facility shall be the responsi-
25 bility of the entity that obtains approval under

1 such paragraph regarding use of the chim-
2 panzee and removes the chimpanzee from the
3 sanctuary facility.

4 “(K) A provision that the Secretary may,
5 in the discretion of the Secretary, accept into
6 the system chimpanzees that are not surplus
7 chimpanzees.

8 “(L) Such additional standards as the Sec-
9 retary determines to be appropriate.

10 “(3) RESTRICTIONS REGARDING RESEARCH.—

11 “(A) IN GENERAL.—For purposes of para-
12 graph (2)(A), standards under paragraph (1)
13 shall provide that a chimpanzee accepted into
14 the sanctuary system may not be used for stud-
15 ies or research, except as provided in clause (i)
16 or (ii), as follows:

17 “(i) The chimpanzee may be used for
18 noninvasive behavioral studies or medical
19 studies based on information collected dur-
20 ing the course of normal veterinary care
21 that is provided for the benefit of the
22 chimpanzee, provided that any such study
23 involves minimal physical and mental
24 harm, pain, distress, and disturbance to

1 the chimpanzee and the social group in
2 which the chimpanzee lives.

3 “(ii) The chimpanzee may be used in
4 research if—

5 “(I) the Secretary finds that
6 there are special circumstances in
7 which there is need for that indi-
8 vidual, specific chimpanzee (based on
9 that chimpanzee’s prior medical his-
10 tory, prior research protocols, and
11 current status), and there is no chim-
12 panzee with a similar history and cur-
13 rent status that is reasonably avail-
14 able among chimpanzees that are not
15 in the sanctuary system;

16 “(II) the Secretary finds that
17 there are technological or medical ad-
18 vancements that were not available at
19 the time the chimpanzee entered the
20 sanctuary system, and that such ad-
21 vancements can and will be used in
22 the research;

23 “(III) the Secretary finds that
24 the research is essential to address an
25 important public health need; and

1 “(IV) the design of the research
2 involves minimal pain and physical
3 harm to the chimpanzee, and other-
4 wise minimizes mental harm, distress,
5 and disturbance to the chimpanzee
6 and the social group in which the
7 chimpanzee lives (including with re-
8 spect to removal of the chimpanzee
9 from the sanctuary facility involved).

10 “(B) APPROVAL OF RESEARCH DESIGN.—

11 “(i) EVALUATION BY SANCTUARY
12 BOARD.—With respect to a proposed use in
13 research of a chimpanzee in the sanctuary
14 system under subparagraph (A)(ii), the
15 board of directors of the nonprofit private
16 entity that receives the contract under sub-
17 section (e) shall, after consultation with
18 the head of the sanctuary facility in which
19 the chimpanzee has been placed and with
20 the attending veterinarian, evaluate wheth-
21 er the design of the research meets the
22 conditions described in subparagraph
23 (A)(ii)(IV) and shall submit to the Sec-
24 retary the findings of the evaluation.

1 “(ii) ACCEPTANCE OF BOARD FIND-
2 INGS.—The Secretary shall accept the
3 findings submitted to the Secretary under
4 clause (i) by the board of directors referred
5 to in such clause unless the Secretary
6 makes a determination that the findings of
7 the board are arbitrary or capricious.

8 “(iii) PUBLIC PARTICIPATION.—With
9 respect to a proposed use in research of a
10 chimpanzee in the sanctuary system under
11 subparagraph (A)(ii), the proposal shall
12 not be approved until—

13 “(I) the Secretary publishes in
14 the Federal Register the proposed
15 findings of the Secretary under such
16 subparagraph, the findings of the
17 evaluation by the board under clause
18 (i) of this subparagraph, and the pro-
19 posed evaluation by the Secretary
20 under clause (ii) of this subparagraph;
21 and

22 “(II) the Secretary seeks public
23 comment for a period of not less than
24 60 days.

1 “(C) ADDITIONAL RESTRICTION.—For
2 purposes of paragraph (2)(A), a condition for
3 the use in studies or research of a chimpanzee
4 accepted into the sanctuary system is (in addi-
5 tion to conditions under subparagraphs (A) and
6 (B) of this paragraph) that the applicant for
7 such use has not been fined for, or signed a
8 consent decree for, any violation of the Animal
9 Welfare Act.

10 “(4) NON-FEDERAL CHIMPANZEES OFFERED
11 FOR ACCEPTANCE INTO SYSTEM.—With respect to a
12 chimpanzee that is not owned by the Federal Gov-
13 ernment and is offered for acceptance into the sanc-
14 tuary system, standards under paragraph (1) shall
15 include the following:

16 “(A) A provision that the Secretary may
17 authorize the imposition of a fee for accepting
18 such chimpanzee into the system, except as fol-
19 lows:

20 “(i) Such a fee may not be imposed
21 for accepting the chimpanzee if, on the day
22 before the date of enactment of this sec-
23 tion, the chimpanzee was owned by the
24 nonprofit private entity that receives the
25 contract under subsection (e) or by any in-

1 dividual sanctuary facility receiving a sub-
2 contract or grant under subsection (e)(1).

3 “(ii) Such a fee may not be imposed
4 for accepting the chimpanzee if the chim-
5 panzee is owned by an entity that operates
6 a primate center, and if the chimpanzee is
7 housed in the primate center pursuant to
8 the program for regional centers for re-
9 search on primates that is carried out by
10 the National Center for Research Re-
11 sources.

12 Any fees collected under this subparagraph are
13 available to the Secretary for the costs of oper-
14 ating the system. Any other fees received by the
15 Secretary for the long-term care of chimpanzees
16 (including any Federal fees that are collected
17 for such purpose and are identified in the re-
18 port under section 3 of the Chimpanzee Health
19 Improvement, Maintenance, and Protection
20 Act) are available for operating the system, in
21 addition to availability for such other purposes
22 as may be authorized for the use of the fees.

23 “(B) A provision that the Secretary may
24 deny such chimpanzee acceptance into the sys-
25 tem if the capacity of the system is not suffi-

1 cient to accept the chimpanzee, taking into ac-
2 count the physical capacity of the system; the
3 financial resources of the system; the number of
4 individuals serving as the staff of the system,
5 including the number of professional staff; the
6 necessity of providing for the safety of the staff
7 and of the public; the necessity of caring for ac-
8 cepted chimpanzees in accordance with the
9 standards under paragraph (1); and such other
10 factors as may be appropriate.

11 “(C) A provision that the Secretary may
12 deny such chimpanzee acceptance into the sys-
13 tem if a complete history of the health and use
14 in research of the chimpanzee is not available to
15 the Secretary.

16 “(D) Such additional standards as the Sec-
17 retary determines to be appropriate.

18 “(e) AWARD OF CONTRACT FOR OPERATION OF SYS-
19 TEM.—

20 “(1) IN GENERAL.—Subject to the availability
21 of funds pursuant to subsection (g), the Secretary
22 shall make an award of a contract to a nonprofit
23 private entity under which the entity has the respon-
24 sibility of operating (and establishing, as applicable)
25 the sanctuary system and awarding subcontracts or

1 grants to individual sanctuary facilities that meet
2 the standards under subsection (d).

3 “(2) REQUIREMENTS.—The Secretary may
4 make an award under paragraph (1) to a nonprofit
5 private entity only if the entity meets the following
6 requirements:

7 “(A) The entity has a governing board of
8 directors that is composed and appointed in ac-
9 cordance with paragraph (3) and is satisfactory
10 to the Secretary.

11 “(B) The terms of service for members of
12 such board are in accordance with paragraph
13 (3).

14 “(C) The members of the board serve with-
15 out compensation. The members may be reim-
16 bursed for travel, subsistence, and other nec-
17 essary expenses incurred in carrying out the du-
18 ties of the board.

19 “(D) The entity has an executive director
20 meeting such requirements as the Secretary de-
21 termines to be appropriate.

22 “(E) The entity makes the agreement de-
23 scribed in paragraph (4) (relating to non-Fed-
24 eral contributions).

1 “(F) The entity agrees to comply with
2 standards under subsection (d).

3 “(G) The entity agrees to make necropsy
4 reports on chimpanzees in the sanctuary system
5 available on a reasonable basis to persons who
6 conduct biomedical or behavioral research, with
7 priority given to such persons who are Federal
8 employees or who receive financial support from
9 the Federal Government for research.

10 “(H) Such other requirements as the Sec-
11 retary determines to be appropriate.

12 “(3) BOARD OF DIRECTORS.—For purposes of
13 subparagraphs (A) and (B) of paragraph (2):

14 “(A) The governing board of directors of
15 the nonprofit private entity involved is com-
16 posed and appointed in accordance with this
17 paragraph if the following conditions are met:

18 “(i) Such board is composed of not
19 more than 13 voting members.

20 “(ii) Such members include individ-
21 uals with expertise and experience in the
22 science of managing captive chimpanzees
23 (including primate veterinary care), ap-
24 pointed from among individuals endorsed

1 by organizations that represent individuals
2 in such field.

3 “(iii) Such members include individ-
4 uals with expertise and experience in the
5 field of animal protection, appointed from
6 among individuals endorsed by organiza-
7 tions that represent individuals in such
8 field.

9 “(iv) Such members include individ-
10 uals with expertise and experience in the
11 zoological field (including behavioral pri-
12 matology), appointed from among individ-
13 uals endorsed by organizations that rep-
14 resent individuals in such field.

15 “(v) Such members include individuals
16 with expertise and experience in the field
17 of the business and management of non-
18 profit organizations, appointed from
19 among individuals endorsed by organiza-
20 tions that represent individuals in such
21 field.

22 “(vi) Such members include represent-
23 atives from entities that provide accredita-
24 tion in the field of laboratory animal medi-
25 cine.

1 “(vii) Such members include individ-
2 uals with expertise and experience in the
3 field of containing biohazards.

4 “(viii) Such members include an addi-
5 tional member who serves as the chair of
6 the board, appointed from among individ-
7 uals who have been endorsed for purposes
8 of clause (ii), (iii), (iv), or (v).

9 “(ix) None of the members of the
10 board has been fined for, or signed a con-
11 sent decree for, any violation of the Animal
12 Welfare Act.

13 “(B) The terms of service for members of
14 the board of directors are in accordance with
15 this paragraph if the following conditions are
16 met:

17 “(i) The term of the chair of the
18 board is 3 years.

19 “(ii) The initial members of the board
20 select, by a random method, 1 member
21 from each of the 6 fields specified in sub-
22 paragraph (A) to serve a term of 2 years
23 and (in addition to the chair) 1 member
24 from each of such fields to serve a term of
25 3 years.

1 “(iii) After the initial terms under
2 clause (ii) expire, each member of the
3 board (other than the chair) is appointed
4 to serve a term of 2 years.

5 “(iv) An individual whose term of
6 service expires may be reappointed to the
7 board.

8 “(v) A vacancy in the membership of
9 the board is filled in the manner in which
10 the original appointment was made.

11 “(vi) If a member of the board does
12 not serve the full term applicable to the
13 member, the individual appointed to fill the
14 resulting vacancy is appointed for the re-
15 mainder of the term of the predecessor
16 member.

17 “(4) REQUIREMENT OF MATCHING FUNDS.—
18 The agreement required in paragraph (2)(E) for a
19 nonprofit private entity (relating to the award of the
20 contract under paragraph (1)) is an agreement that,
21 with respect to the costs to be incurred by the entity
22 in establishing and operating the sanctuary system,
23 the entity will make available (directly or through
24 donations from public or private entities) non-Fed-
25 eral contributions toward such costs, in cash or in

1 kind, in an amount not less than the following, as
2 applicable:

3 “(A) For expenses associated with estab-
4 lishing the sanctuary system (as determined by
5 the Secretary), 10 percent of such costs (\$1 for
6 each \$9 of Federal funds provided under the
7 contract under paragraph (1)).

8 “(B) For expenses associated with oper-
9 ating the sanctuary system (as determined by
10 the Secretary), 25 percent of such costs (\$1 for
11 each \$3 of Federal funds provided under such
12 contract).

13 “(5) ESTABLISHMENT OF CONTRACT ENTITY.—
14 If the Secretary determines that an entity meeting
15 the requirements of paragraph (2) does not exist,
16 not later than 60 days after the date of enactment
17 of this section, the Secretary shall, for purposes of
18 paragraph (1), make a grant for the establishment
19 of such an entity, including paying the cost of incor-
20 porating the entity under the law of one of the
21 States.

22 “(f) DEFINITIONS.—For purposes of this section:

23 “(1) PERMANENT RETIREMENT.—The term
24 ‘permanent retirement’, with respect to a chim-
25 panzee that has been accepted into the sanctuary

1 system, means that under subsection (a) the system
2 provides for the lifetime care of the chimpanzee, that
3 under subsection (d)(2) the system does not permit
4 the chimpanzee to be used in research (except as au-
5 thorized under subsection (d)(3)) or to be
6 euthanized (except as provided in subsection
7 (d)(2)(I)), that under subsection (d)(2) the system
8 will not discharge the chimpanzee from the system,
9 and that under such subsection the system otherwise
10 cares for the chimpanzee.

11 “(2) SANCTUARY SYSTEM.—The term ‘sanc-
12 tuary system’ means the system described in sub-
13 section (a).

14 “(3) SECRETARY.—The term ‘Secretary’ means
15 the Secretary of Health and Human Services.

16 “(4) SURPLUS CHIMPANZEES.—The term ‘sur-
17 plus chimpanzees’ has the meaning given that term
18 in subsection (a).

19 “(g) FUNDING.—

20 “(1) IN GENERAL.—Of the amount appro-
21 priated under this Act for fiscal year 2001 and each
22 subsequent fiscal year, the Secretary, subject to
23 paragraph (2), shall reserve a portion for purposes
24 of the operation (and establishment, as applicable)
25 of the sanctuary system and for purposes of para-

1 graph (3), except that the Secretary may not for
2 such purposes reserve any further funds from such
3 amount after the aggregate total of the funds so re-
4 served for such fiscal years reaches \$30,000,000.
5 The purposes for which funds reserved under the
6 preceding sentence may be expended include the con-
7 struction and renovation of facilities for the sanc-
8 tuary system.

9 “(2) LIMITATION.—Funds may not be reserved
10 for a fiscal year under paragraph (1) unless the
11 amount appropriated under this Act for such year
12 equals or exceeds the amount appropriated under
13 this Act for fiscal year 1999.

14 “(3) USE OF FUNDS FOR OTHER COMPLIANT
15 FACILITIES.—With respect to amounts reserved
16 under paragraph (1) for a fiscal year, the Secretary
17 may use a portion of such amounts to make awards
18 of grants or contracts to public or private entities
19 operating facilities that, as determined by the board
20 of directors of the nonprofit private entity that re-
21 ceives the contract under subsection (e), provide for
22 the retirement of chimpanzees in accordance with
23 the same standards that apply to the sanctuary sys-
24 tem pursuant to regulations under subsection (d).

1 Such an award may be expended for the expenses of
2 operating the facilities involved.”.

3 **SEC. 3. REPORT TO CONGRESS REGARDING NUMBER OF**
4 **CHIMPANZEES AND FUNDING FOR CARE OF**
5 **CHIMPANZEES.**

6 With respect to chimpanzees that have been used, or
7 were bred or purchased for use, in research conducted or
8 supported by the National Institutes of Health, the Food
9 and Drug Administration, or other agencies of the Federal
10 Government, the Secretary of Health and Human Services
11 shall, not later than 365 days after the date of enactment
12 of this Act, submit to Congress a report providing the fol-
13 lowing information:

14 (1) The number of such chimpanzees in the
15 United States, whether owned or held by the Federal
16 Government, any of the States, or private entities.

17 (2) An identification of any requirement im-
18 posed by the Federal Government that, as a condi-
19 tion of the use of such a chimpanzee in research by
20 a non-Federal entity—

21 (A) fees be paid by the entity to the Fed-
22 eral Government for the purpose of providing
23 for the care of the chimpanzee (including any
24 fees for long-term care); or

1 (B) funds be provided by the entity to a
2 State, unit of local government, or private enti-
3 ty for an endowment or other financial account
4 whose purpose is to provide for the care of the
5 chimpanzee (including any funds provided for
6 long-term care).

7 (3) An accounting for fiscal years 1999 and
8 2000 of all fees paid and funds provided by non-
9 Federal entities pursuant to requirements described
10 in subparagraphs (A) and (B) of paragraph (2).

11 (4) In the case of such fees, a specification of
12 whether the fees were available to the Secretary (or
13 other Federal officials) pursuant to annual appro-
14 priations Acts or pursuant to permanent appropria-
15 tions.

Passed the House of Representatives October 24,
2000.

Attest:

Clerk.

106TH CONGRESS
2D SESSION

H. R. 3514

AN ACT

To amend the Public Health Service Act to provide for a system of sanctuaries for chimpanzees that have been designated as being no longer needed in research conducted or supported by the Public Health Service, and for other purposes.